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17 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **FOR THE COUNTY OF SAN FRANCISCO**

19 G.R.,

20 Petitioner,

21 v.

22 TWITTER, INC.,

23 Respondent.

24 G.R.,
25 175 Strafford Avenue
26 Suite 1 PMB 212
27 Wayne, OA 19086-3340

28 Plaintiff,

v.

JOHN DOE,
[Address Unknown]

Defendant.

FILED
Superior Court of California
County of San Francisco
SEP 18 2014
CLERK OF THE COURT
BY: [Signature]
County Clerk

CPF - 14 - 513872

S.F. Superior Court Case No. _____

Judge _____

**PETITION FOR RELIEF IN DISCOVERY
DISPUTE RELATED TO OUT-OF-STATE
CASE**

STIPULATION AND ORDER

[Cal. Code Civ. Proc. §§ 2029.600, 2029.610]

New Jersey Superior Court
Chancery Division
Bergen County

Civil Action

Docket No. BER-C-000185-14

Filed by Petitioner/Plaintiff Who Is A Party To
The Out-of-State Case

1 Petitioner/Plaintiff in this case, G.R., ("Plaintiff") a New Jersey resident, hereby applies for
2 relief from this Court under C.C.P. §2029.600. Specifically, Plaintiff requests this Court enter the
3 attached Stipulation and Order ("Stipulation") directing a third party, Twitter, Inc. ("Twitter") to
4 produce information pursuant to a valid subpoena. The Stipulation has been agreed to by the
5 Plaintiff and Twitter, eliminating, at this time, the need for a motion to compel. Further, Plaintiff
6 meets the standard in California to overcome a speaker's First Amendment right to anonymous
7 free speech.

8 **I. FACTUAL BACKGROUND OF THE UNDERLYING LAWSUIT**

9 The Harassment Campaign

10 The underlying lawsuit was filed by Plaintiff G.R. in state court in New Jersey. A copy of
11 the New Jersey Complaint ("Complaint") is attached as Exhibit A.
12 Plaintiff G.R. has been, since March of this year, subject to a cyber-harassment campaign,
13 promulgated by an unknown individual ("Defendant"). In the course of this campaign, the
14 Defendant sent harassing and salacious messages through the social media application Twitter
15 ("tweets") to the Plaintiff. All of these tweets are publicly accessible through Twitter. These
16 tweets included extremely harassing messages to the Plaintiff, such as "kill yourself loser;"
17 "choke on your own vomit;" "burn yourself alive;" and "now hang yourself jerkoff;" among
18 many others making similar assertions and containing profanities. Additionally, the Defendant
19 defamed Plaintiff by accusing the Plaintiff of criminal conduct, alleging that the Plaintiff
20 "molested little boys" and sending such false accusations to Plaintiff's employer. Given this
21 harassing and defamatory activity, Plaintiff filed a lawsuit asserting civil claims for defamation,
22 negligence *per se*, and intentional infliction of emotional distress in New Jersey state court.

23 As the Defendant has used Twitter's social media application to conduct his illegal activity
24 anonymously, the Defendant's identity is unknown to Plaintiff. Plaintiff has no way to pursue his
25 claims against the Defendant without first conducting discovery to determine the Defendant's
26 identity. Thus, Plaintiff served a subpoena on Twitter for information relating to the various
27 accounts through which the defamatory tweets were made. The subpoena requested the account
28 information used to register the Twitter accounts at issue in the Complaint and information

1 relating to the IP Addresses used by the Defendant to log on to the accounts and send the
2 actionable tweets. See Executed Subpoena, attached hereto as Exhibit B. This California
3 subpoena, although requesting discovery for a civil case pending in New Jersey, was issued and
4 served in compliance with New Jersey and California law. See N.J. R. R. 4:11-5; C.C.P. §
5 2029.350. Specifically, the subpoena was served under California's adoption of the Interstate and
6 International Depositions and Discovery Act, which permits an out-of-state plaintiff to serve a
7 subpoena on a third party in California. See C.C.P. § 2029.100, et seq. Upon receipt of the
8 subpoena, Twitter provided notice to the Defendant of the subpoena. The Defendant has not
9 objected to the subpoena or otherwise appeared.

10 Twitter's Response to the Subpoena

11 Initially, Twitter objected to the breadth of the subpoena, but agreed to produce the
12 requested information related to seven accounts: @popper_penis; @BoywonderWonder;
13 @SheepSheepskin; @poppa_bigpoppa; @foxybrown_as; @dingdon14856719; and
14 @zolan_tristet. These seven accounts made statements alleging that Plaintiff molested children,
15 and thus are defamatory on their face under New Jersey law. However, Twitter maintains that
16 before it could release the requested information, a court must determine that the Plaintiff has
17 demonstrated that his claims meet certain standards elucidated by courts regarding unmasking
18 anonymous posters. See Stipulation at 2. Plaintiff maintains that such a showing at this stage of
19 the matter is premature, and that the standard that Twitter cites applies *only if* the Defendant, not
20 the subpoenaed third party (*i.e.*, Twitter), were to file a Motion to Quash the subpoena. See
21 Tendler v. www.jewishsurvivors.blogspot.com, 164 Cal. App. 4th 802, 809 ("Krinsky's prima
22 facie showing requirement does not apply to the request for a subpoena itself, but only to the
23 showing necessary to overcome a motion to quash."). While Plaintiff and Twitter disagree as to
24 the propriety of Twitter's position concerning the enforcement of the subpoena, in the interest of
25 compromise, the Plaintiff and Twitter have agreed on the attached Stipulation to govern this
26 discovery at this time.

1 **II. ARGUMENT**


2 As outlined in the Stipulation, Twitter has asserted that before it can produce the agreed-
3 upon material, a Court must find that Plaintiff "has made the requisite showing pursuant to the
4 First Amendment to the U.S. Constitution and under the Constitution of the State of California."
5 Here, Plaintiff easily meets the requisite standard, elucidated in Krinsky: Plaintiff can make a
6 prima facie showing of his claims. Krinsky v. Doe 6, 159 Cal. App. 4th 1154, 1172 (Cal. App.
7 6th Dist. 2008). Indeed, the statements at issue are all false, and, as they accuse Plaintiff of
8 molesting children, they are defamatory *per se* under New Jersey law. Devries v. McNeil
9 Consumer Prods. Co., 250 N.J. Super. 159, 166 (App. Div. 1991) ("statements alleging that the
10 subject committed a crime are defamatory *per se*"). Further, neither Defendant nor Twitter
11 disputes that the statements are false, damaging, and support a claim for defamation. Therefore,
12 based on Plaintiff's showing under Krinsky, Plaintiff requests under C.C.P. § 2029.600 that the
13 Stipulation be entered, ordering Twitter to produce the agreed-upon records.

14 **III. CONCLUSION**

15 Plaintiff hereby requests that this Court enter the attached Stipulation. The
16 Stipulation has been seen and agreed to by both the Plaintiff and the subpocnaed third-
17 party entity in this matter, Twitter, and Plaintiff has met the California standard to
18 overcome any First Amendment concerns.

1 DATED: September 17, 2014

2 Respectfully Submitted,

3
4 
5 _____
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21 *Attorneys for Plaintiffs*

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 3770 Highland Avenue, #206, Manhattan Beach, California 90266.

On this date, I served the foregoing document(s) described as PETITION FOR RELIEF IN DISCOVERY DISPUTE RELATED TO OUT-OF-STATE CASE and STIPULATION AND ORDER on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Kevan Fornasero
Perkins Coie LLP
Four Embarcadero Center, Suite 2400
San Francisco CA 94111-4131
Phone: (415) 344-7000
Fax: (415) 344-7050
Attorney for Nonparty Twitter, Inc.

☒ (BY U.S. MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Manhattan Beach, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee and/or to the addressee personally.

☒ (State) I certify (or declare) under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct, and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on September 18, at Manhattan Beach, California.


LESLIE M. RUDOLPH

General Information

Court	Superior Court of California, County of San Francisco
Docket Number	CPF14513872
Status	Open